

United States District Court
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JAMES CARL CALLAHAN

v.

PATHWARD NATIONAL
ASSOCIATION

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CIVIL ACTION NO. 3:23-CV-1797-S-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Objections were filed. The District Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

However, in the Objection to the Conclusion and Recommendation of United States Magistrate Judge (“Objection”) [ECF No. 8], Plaintiff James Carl Callahan emphasizes the basis for Defendant Pathward National Association’s liability. Plaintiff alleges that Defendant “refuse[d] to return” Plaintiff’s Supplemental Security Income checks, which were erroneously sent to Defendant. Obj. 1. The Court finds this allegation sufficient to show that the case should not be dismissed with prejudice at this time and that the Court should instead grant Plaintiff leave to amend. *See* FED. R. CIV. P. 15(a)(2) (“The court should freely give leave [to amend] when justice so requires.”).

For the reasons stated above, the Court **GRANTS** Plaintiff leave to file an amended complaint within **21 days**. Failure to do so will result in dismissal of this case with prejudice without further notice.

SO ORDERED.

SIGNED September 22, 2023.



UNITED STATES DISTRICT JUDGE